

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 05-CV-329-GKF-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

WILLOW BROOK FOODS, INC.'S RESPONSE TO STATE OF OKLAHOMA'S
MOTION TO STRIKE DKT #1579

Defendant Willow Brook Foods, Inc. ("Willow Brook") submits its response to Plaintiffs' motion to strike Willow Brook Foods, Inc.'s trial brief for hearing on preliminary injunction [DKT #1579]. In support, Willow Brook states as follows:

Willow Brook made a preliminary decision to cease contracting with its remaining grower in the State of Oklahoma and the Illinois River Watershed on February 12, 2008. On February 14, 2008, Willow Brook decided that it would not appear at the hearing on Plaintiff's motion for preliminary injunction. As a result of its recent decisions, Willow Brook had an obligation to notify the Court that it was not going to appear at the hearing, and explain why and indicate how it would proceed to defend the Plaintiffs' motion for a preliminary injunction. Willow Brook filed its notice of advice and trial brief with these objectives in mind.

Willow Brook's trial brief relayed important information about its operations to the Court and the parties and reiterated the same legal defenses already asserted in pleadings filed by the defendants collectively. *See* DKT #1531/#1537. Consequently, Willow Brook does not believe the trial brief constituted a response to the motion for preliminary injunction that was required by the Court's order to be filed on February 12,

2008. DKT #1511. Willow Brook notes that the February 12, 2008 deadline did not prevent the Plaintiffs from filing trial briefs to edify the Court regarding Plaintiffs' case.

Moreover, even if Willow Brook's trial brief could be construed as a response to the motion for preliminary injunction, the pleading could not have been filed on February 12, 2008 since Willow Brook's decision not to appear at the hearing was not reached until February 14, 2008. DKT #1511. Further, Willow Brook filed its trial brief in good faith. As such, should the Court deem the trial brief to be a response, Willow Brook moves the Court to grant it leave to file the pleading on February 19, 2008.

Finally, given the content and brevity of Willow Brook's trial brief and the fact that the Plaintiffs already have responded to the substance thereof in their motion to strike, the Plaintiffs fail to demonstrate that they would suffer any prejudice that might warrant the relief sought.

WHEREFORE, for all of these reasons, Willow Brook respectfully requests the Court to deny the Plaintiffs' motion to strike its trial brief.

Respectfully submitted,

LATHROP & GAGE, L.C.

/s/ Jennifer S. Griffin

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CERTIFICATE OF SERVICE

I certify that on the 29th day of February 2008, I electronically transmitted the attached document to the following ECF registrants:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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